

Translation

PATENT COOPERATION TREATY

PCT

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY
(Chapter II of the Patent Cooperation Treaty)

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference WA 3019-03WO	FOR FURTHER ACTION	See Form PCT/IPEA/416
International application No. PCT/EP2004/003394	International filing date (day/month/year) 31.03.2004	Priority date (day/month/year) 24.04.2003
International Patent Classification (IPC) or national classification and IPC		
Applicant WOBBEN, Aloys		

1.	This report is the international preliminary examination report, established by this International Preliminary Examining Authority under Article 35 and transmitted to the applicant according to Article 36.
2.	This REPORT consists of a total of <u>7</u> sheets, including this cover sheet.
3.	This report is also accompanied by ANNEXES, comprising: <ul style="list-style-type: none"> a. <input checked="" type="checkbox"/> (sent to the applicant and to the International Bureau) a total of <u>1</u> sheets, as follows: <ul style="list-style-type: none"> <input checked="" type="checkbox"/> sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications authorized by this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions). <input type="checkbox"/> sheets which supersede earlier sheets, but which this Authority considers contain an amendment that goes beyond the disclosure in the international application as filed, as indicated in item 4 of Box No. I and the Supplemental Box. b. <input type="checkbox"/> (sent to the International Bureau only) a total of (indicate type and number of electronic carrier(s)) _____, containing a sequence listing and/or tables related thereto, in computer readable form only, as indicated in the Supplemental Box Relating to Sequence Listing (see Section 802 of the Administrative Instructions).
4.	This report contains indications relating to the following items: <ul style="list-style-type: none"> <input checked="" type="checkbox"/> Box No. I Basis of the report <input type="checkbox"/> Box No. II Priority <input checked="" type="checkbox"/> Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability <input type="checkbox"/> Box No. IV Lack of unity of invention <input checked="" type="checkbox"/> Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement <input type="checkbox"/> Box No. VI Certain documents cited <input type="checkbox"/> Box No. VII Certain defects in the international application <input type="checkbox"/> Box No. VIII Certain observations on the international application

Date of submission of the demand	Date of completion of this report
Name and mailing address of the IPEA/EP	Authorized officer
Facsimile No.	Telephone No.

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

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Box No. I Basis of the report

1. With regard to the language, this report is based on the international application in the language in which it was filed, unless otherwise indicated under this item.
- ☐ This report is based on translations from the original language into the following language _____, which is the language of a translation furnished for the purposes of:
- ☐ international search (Rule 12.3 and 23.1(b))
- ☐ publication of the international application (Rule 12.4)
- ☐ international preliminary examination (Rule 55.2 and/or 55.3)
2. With regard to the elements of the international application, this report is based on *(replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report)*:
- ☐ the international application as originally filed/furnished
- ☒ the description:
- pages 1-9 _____ as originally filed/furnished
- pages* _____ received by this Authority on _____
- pages* _____ received by this Authority on _____
- ☒ the claims:
- nos. 2-11 _____ as originally filed/furnished
- nos.* _____ as amended (together with any statement) under Article 19
- nos.* 1 _____ received by this Authority on 24.02.2005 with letter
- nos.* _____ received by this Authority on of 23.02.2005
- ☒ the drawings:
- sheets 1/4-4/4 _____ as originally filed/furnished
- sheets* _____ received by this Authority on _____
- sheets* _____ received by this Authority on _____
- ☐ a sequence listing and/or any related table(s) – see Supplemental Box Relating to Sequence Listing.
3. ☐ The amendments have resulted in the cancellation of:
- ☐ the description, pages _____
- ☐ the claims, nos. _____
- ☐ the drawings, sheets/figs _____
- ☐ the sequence listing (*specify*): _____
- ☐ any table(s) related to sequence listing (*specify*): _____
4. ☐ This report has been established as if (some of) the amendments annexed to this report and listed below had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).
- ☐ the description, pages _____
- ☐ the claims, nos. _____
- ☐ the drawings, sheets/figs _____
- ☐ the sequence listing (*specify*): _____
- ☐ any table(s) related to sequence listing (*specify*): _____

* If item 4 applies, some or all of those sheets may be marked "superseded."

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Box No. III

Non-establishment of opinion with regard to novelty, inventive step and industrial applicability

The questions whether the claimed invention appears to be novel, to involve an inventive step (to be non obvious), or to be industrially applicable have not been examined in respect of:

☐ the entire international application

☒ claims Nos. 2-11

because:

☐ the said international application, or the said claims Nos. _____
relate to the following subject matter which does not require an international preliminary examination (*specify*):

See Supplemental Box.

☒ the description, claims or drawings (*indicate particular elements below*) or said claims Nos. 2-11
are so unclear that no meaningful opinion could be formed (*specify*):

See Supplemental Box.

☐ the claims, or said claims Nos. _____ are so inadequately supported
by the description that no meaningful opinion could be formed.

☐ no international search report has been established for said claims Nos. _____

☐ the nucleotide and/or amino acid sequence listing does not comply with the standard provided for in Annex C of the Administrative Instructions in that:

the written form

☐ has not been furnished☐ does not comply with the standard

the computer readable form

☐ has not been furnished☐ does not comply with the standard

☐ the tables related to the nucleotide and/or amino acid sequence listing, if in computer readable form only, do not comply with the technical requirements provided for in Annex C-bis of the Administrative Instructions.

☒ See Supplemental Box for further details.

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Box No. V	Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement		
1. Statement			
Novelty (N)	Claims	<u>1</u>	YES
	Claims		NO
Inventive step (IS)	Claims	<u>1</u>	YES
	Claims		NO
Industrial applicability (IA)	Claims	<u>1</u>	YES
	Claims		NO
2. Citations and explanations (Rule 70.7)			
4. Reference is made to the following documents:			
D1: DE 199 28 048 A (BRINKMANN KLAUS; GAU MARCUS (DE)) 23 December 1999 (1999-12-23).			
5. Document D1 is considered to be the prior art closest to the subject matter of claim 1. Said document discloses (the references in parentheses are to D1 (see the figures)):			
a method for the operation of a wind energy plant, a first light intensity in a region of direct light irradiation (2a, Ua) and a second light intensity in an area of shadow (2b, Ub) being detected and the wind energy plant being shut down if the difference (U5) between the first light intensity and the second light intensity is greater than a predetermined value (U6);			
a wind energy plant for implementing the aforementioned method, said plant comprising a data processing unit (6, 7) which controls the wind energy plant and in which are stored (7a) the positions of the sun - or values that represent			
/...			

Box No. V

Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability;
citations and explanations supporting such statement

the positions of the sun - at which the plant can be shut down, said wind energy plant being connected to multiple light sensors by means of which the intensity of light and shadow, detected at any one moment or over a fixed period, is measured, the data acquired by means of the light sensors being processed in the data processing unit, and the wind energy plant being shut down if it is determined that the difference between light and shadow exceeds a predetermined value at a predetermined position of the sun.

6. Thus, the subject matter of claim 1 differs from the known wind energy plant in that the wind energy plant is connected to at least three light sensors that are equally spaced around said plant.
7. The subject matter of claim 1 is therefore novel (PCT Article 33(2)).
8. The problem addressed by the present invention can consequently be regarded as that of detecting light intensity at any particular moment in time, both where light is directly radiated and in shadow.
9. The solution to the above problem, as proposed in claim 1 of the present application involves an inventive step. The reasons are as follows (PCT Article 33(3)):

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Box No. V

Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability;
citations and explanations supporting such statement

consequent upon the use of at least three sensors
equally spaced around said plant, one of said
sensors is always directly exposed to the
incidence of light and at least one other sensor
is always in an area of shadow.

Supplemental Box

In case the space in any of the preceding boxes is not sufficient.

Continuation of:

Box III

1. Method claims 2-6 are defined, directly or indirectly, as claims that are dependent on claim 1. However, claim 1 is directed to a device (wind energy plant) and, thus, a lack of clarity arises in that it is not possible to establish an expert opinion in respect of novelty, inventive step and industrial applicability.
2. Likewise, claims 7-10 are directed to a "wind energy plant for implementing **the method according to one of the preceding claims**", thus also giving rise to a lack of clarity such that it is not possible to establish an expert opinion in respect of novelty, inventive step and industrial applicability.
3. Claim 11 is not fully defined. In consequence, it is not possible to establish an expert opinion in respect of novelty, inventive step and industrial applicability.